

VIA HAND-DELIVERY

June 18, 2004

The Honorable John W. Hickenlooper
c/o Cole Finegan, City Attorney
1437 Bannock Street, Suite 353
Denver, Colorado 80202

Re: Mayor's Denver Police Department Task Force

Dear Mayor Hickenlooper:

We tender to you the work product of the Denver Police Department Task Force. This includes recommendations of the Task Force, minority reports as further described herein, and some subcommittee recommendations. In some instances, the Task Force considered language but did not arrive at a consensus or agreed to disagree, which we noted. Last, we also tender two oversight proposals from separate individuals on the Task Force; although these individuals were also part of the consensus on the portions of the proposal which the Task Force discussed in its meetings. Our conclusion is that this work product represents those agreements that could be achieved given the nature of the subject and the broad spectrum of participants in the Task Force itself and also identifies areas of disagreement.

Initially, the Task Force includes drafted language regarding the Denver Police Department's Use of Force policy. Largely, this language is the consensus of the Task Force members. It includes some language recommended by the administration and existing policy but the Task Force also researched other sources and utilized what it concluded was most appropriate. This language was originally drafted by subcommittee but discussed by the Task Force and either adopted, modified, or rejected.

These recommendations include proposed: 1) changes to the Preamble; 2) addition to Operations Manual Sec. 105.04(4); 3) changes to Sec. 105.00, language regarding requesting a CIT officer; 4) language regarding edged weapons; and, 5) vehicles. In the language regarding edged weapons, the word "barriers" is in bold italics because after considerable discussion the Task Force did not reach consensus on it. The Task

Force also discussed proposed language regarding Drug and Alcohol Testing after a death but reached no consensus regarding it. This language in bold italics remains for your information and consideration.

The Task Force work product on the issue of civilian oversight is more complex. First, a subcommittee of the Task Force presented a draft for review by the entire Task Force. Again, the Task Force attempted to achieve consensus on this or revised language. The Task Force achieved consensus on a portion of the draft. Some portions were in contention such that the Task Force clearly did not achieve consensus. Last, the dialogue became hindered as representatives of the Denver Police Protective Association terminated their participation. As other members of the Task Force left due to the late hour, we then concluded that we lacked the mass sufficient to continue. We tender the results of this effort, the Oversight Recommendations.

First, the Task Force adopted paragraphs 1 through 4 of this draft by consensus. In paragraph 2, the Task Force believed that “background checks” were appropriate for the prospective members of the Board, presently the Public Safety Review Commission, but did not specify what the checks should consist of. The staff drafting any proposed ordinance would identify this, consistent with other municipal authorities. The Task Force then skipped paragraph 5 and subsequent related paragraphs on the premise that it was premature to discuss staffing for the office of the Independent Monitor prior to arriving at consensus on any specific structure or scope of authority or duties.

The Task Force considered the draft again at paragraph 16 and adopted by consensus paragraphs 16 through 37. Paragraph 16 includes “Fire Department Employee” in parenthesis. The Task Force intended to make arson investigators subject to the oversight as they are certified peace officers and carry weapons on the job.

In paragraph 17, the Task Force again intended that the staff drafting any proposed ordinance make the language regarding sexual orientation consistent with other municipal authorities in this regard. It also intended to define “complaint” as the current methods by which members of the community may complain about law enforcement officers to the Public Safety Review Commission. It did not intend to extend the oversight to complaints that a law enforcement officer may make against another law enforcement officer.

In paragraph 26, the Task Force intended that when the Independent Monitor directs the IAB to initiate an investigation, the officer be provided a stated reason which generated the investigation, and also that the investigation have a defined scope.

The Task Force specifically agreed to disagree on paragraph 38. The point of contention was whether or not the Monitor could participate in “deliberations” by the Firearms Discharge Review Board. (A similar issue was raised regarding the Monitor’s presence during deliberations of the Disciplinary Review Board.) The Task Force achieved consensus on the Monitor’s attendance at the presentations and other discussions. However, members of the Task Force felt strongly that either the Independent Monitor should or should not participate in the deliberations.

The Task Force next achieved consensus on paragraphs 39 through 51. It did not reach consensus on Paragraph 52 due to the implications of the Garrity case. The Task Force achieved consensus on paragraphs 53 and 56, but had no agreement on paragraphs 54, 55, and 57.

At the point that the Task Force discussed paragraph 57, the representatives of the DPPA terminated their participation although other law enforcement officers remained. However, with the departure of other members due to the late hour, the remaining Task Force members concluded that it would not be appropriate to purport to speak for the entire Task Force. We instead concluded that we should advise you that we did not complete the dialogue of the Oversight Recommendation’s paragraphs 57 through 69, nor did we return to paragraphs 5 through 15. The proposed modifications on these paragraphs represent the subcommittee’s work.

The Task Force did not discuss the DPPA’s Independent Auditor Proposal, attached here, as it was disclosed after the DPPA representatives walked out of the last meeting. In addition, we did not discuss the 100% Civilian Review and Oversight Proposal, submitted by seven community members and also attached, as it was submitted after the DPPA representatives left and at a late hour, although members had advocated for the model in an informal fashion at times in our discussions. One representative of the DPPA advised upon leaving that he would submit written material later. However, evidently the DPPA had submitted their proposal to you prior to the Task Force’s last meeting and the Task Force received nothing else later.

The DPPA representatives had significant concerns with the proposed interaction between the Monitor and the Board. They indicated that the title Independent Monitor suggested that these entities would be distinct from one another, but now believed that the Board in fact influenced the Monitor significantly. The subcommittee and most members of the Task Force had viewed this cooperative relationship between the Monitor and the Board as quite natural and appropriate. The differences on this point precluded a consensus; therefore this product is the maximum that the Task Force could achieve.

We remain grateful for the opportunity to make this contribution to the City and County of Denver. It has been at times a difficult process but nevertheless a rewarding one. We believe the work product to be beneficial. Hopefully you and the Denver City Council will agree. Last, we remain especially grateful for the participation of all of our colleagues on the Task Force and appreciate all the support that we received from members of various municipal departments. Please contact either of us should you have any questions about this report.

Sincerely,

Federico C. Alvarez, Co-Chair

Penfield Tate, Co-Chair